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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,083	12/04/2001	Frank Schwandner	O01-035A	8582
26683	7590	11/18/2004	EXAMINER KIM, AHSHIK	
THE GATES CORPORATION IP LAW DEPT. 10-A3 1551 WEWATTA STREET DENVER, CO 80202			ART UNIT 2876	PAPER NUMBER

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

K.D.

<b>Office Action Summary</b>	<b>Application No.</b> 10/005,083	<b>Applicant(s)</b> SCHWANDNER, FRANK	
	<b>Examiner</b> Ahshik Kim	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 8/16/04 (Response).
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-9 and 16-20 is/are rejected.
- 7)  Claim(s) 10-15 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a)  All   b)  Some \*   c)  None of:
      - 1.  Certified copies of the priority documents have been received.
      - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response*

1. Receipt is acknowledged of the response filed on August 16, 2004. In the response,  
5 without amending any claims, Applicant traversed the rejection made in previous Office Action.  
Currently, claims 1-20 remain for examination.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the  
10 basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United  
States before the invention thereof by the applicant for patent, or on an international application by another who  
15 has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention  
thereof by the applicant for patent.

3. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Rensel (US  
6,036,179, hereinafter “Rensel”).

Rensel teaches a data system (see figure 6) comprising an elastomeric product 22 having  
20 a receiving portion for radio frequency device 27 (col. 4, lines 37+; col. 4, lines 63+). As shown  
in figure 5, the transponder is further comprised of a microchip 33, a battery 28, and antenna 36  
for communicating with a hand held unit 54A.

4. Claims 16- 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulka et al.  
(US 5,483,827, hereinafter “Kulka”).

Art Unit: 2876

Kulka teaches a data system comprising an active integrated circuit transponder installed on an elastomeric product (see abstract; col. 2, lines 56+; col. 4, lines 44+). The elastomeric product 68 (see figure 7 and 8) is considered a spun material, and the radio frequency chip can be installed in a pocket 7 (or an encapsulating medium) (col. 4, lines 55+). The encapsulating material is a cured rubber. The data transmitting apparatus can be integrally installed or detachably installed as disclosed in figures 7 and 8 (col. 7, lines 40+).

#### ***Allowable Subject Matter***

5. Claims 10-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: the claims are directed at a transponder moveably implanted into a pocket on a spindle sleeve. As disclosed in the reference to Aslam, and previously cited references to Epstein and Kleinfelter, a data system comprising an elastomeric product is well known in the art. However, the references, taken alone or in combination, fail to suggest or teach a particular structure wherein the sleeve comprises a sealable pocket and a toothed profile as set forth in the claims.

#### ***Response to Arguments***

7. Applicant's arguments filed on August 16, 2004 have been carefully considered.

Examiner notes Applicant's argument, particularly regarding a pocket as recited in claim 16. As indicated above, a new reference is cited disclosing, in the Examiner's opinion, the subject matter regarding the pocket. In view of the above, this Office Action is made non-final.

Art Unit: 2876

**Conclusion**

5 Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

10 Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

15 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

20 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim  
Patent Examiner  
Art Unit 2876  
November 12, 2004

25